

ORDINANCE NO. 09-95

ORDINANCE GRANTING A SPECIAL USE PERMIT (SUP) TO ALLOW AN AUTOMOTIVE TOWING BUSINESS ON PROPERTY ZONED M-1 (INDUSTRIAL DISTRICT). **PROPERTY LOCATED AT 7740 WEST 2 COURT, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of October 28, 2009 recommended approval of this ordinance; and

WHEREAS, the Petitioner proffers to a declaration of restrictive covenants describing the improvements on the site and consenting to the repeal and rescission of the Special Use Permit should the business change ownership, to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2: The below-described property is hereby granted a special use permit (SUP) to allow an automotive towing business. Property located at 7740 West 2 Court, Hialeah, Miami-Dade County, Florida, zoned M-1 (Industrial District), and legally described as follows:

LOT 2, IN BLOCK 1, OF LAURENCE-HELMKE TRACT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 107, AT PAGE 3, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: Additional Penalties upon Violation of the Conditions of Use and/or Declaration of Restrictive Covenants.

Any change of the terms and conditions of the use identified in this ordinance and as provided in the Declaration of Restrictive Covenants, will cause a revocation of the Special Use Permit and of the city occupational license issued in connection herewith and the property shall revert to the zoning classification without the benefit of the special use and associated variances.

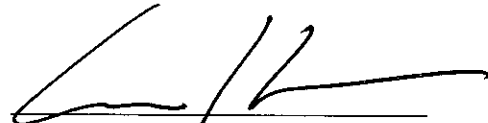
Section 6: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 7: Effective Date.

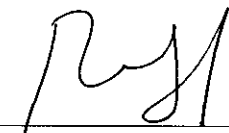
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

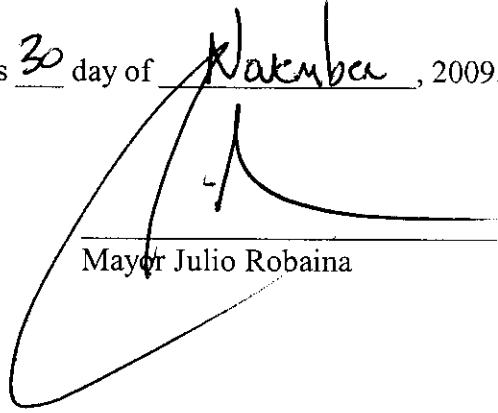
PASSED and ADOPTED this 24th day of November, 2009.



Carlos Hernandez
Council President

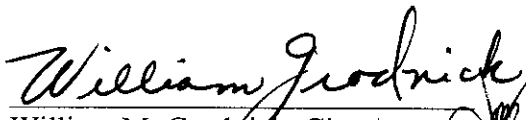
Attest:

Approved on this 30 day of November, 2009.

Rafael E. Granado, City Clerk

Mayor Julio Robaina

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

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Ordinance was adopted by a 6-0 vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Gonzalez, Hernandez, Yedra voting "Yes", Councilmember Garcia-Martinez absent.



CFN 2009R0869266
OR Bk 27105 Pgs 1764 - 1766; (3pgs)
RECORDED 12/07/2009 09:29:24
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

Prepared by and return to:
City of Hialeah
Planning Division
501 Palm Avenue, Second Floor
Hialeah, FL 33010

DECLARATION OF RESTRICTIVE COVENANTS

I, Todd Ruderman, as managing Member of Tarco Red Road, LLC, the Managing member of TDM Red Road, LLC, a Limited Liability Company, being the owner of land described herein:

The East 320.00 feet of the West 995.50 feet of the North 372.00 feet of the South 4,328.00 feet, of Section 30, Township 52 South, Range 41 East, Miami-Dade County, Florida.

The subject property is a portion of folio number 04-2130-000-0041

And I, Raul Suarez, as tenant of the above property and president of Westbrook Motors, Inc., make the following Declaration of Restrictive Covenants covering and running with the above property, specifying that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above, in favor of and enforceable by the City of Hialeah, Florida.

In connection therewith, the undersigned covenant, represent and agree as follows:

1. The property shall be completely improved according to the site plan prepared by Aylin Costa, P.E., and dated September 9, 2009 no later than 120 days after the approval of the Special Use Permit.
2. The replatting proposal related to this site shall be completed within 18 months after the approval of the Special Use Permit
3. Failure to comply with items 1 and 2 will result in the immediate suspension of the City of Hialeah business tax receipt necessary to operate the towing business and Westbrook shall cease operations immediately.
4. The property shall be used for a towing business by Westbrook Motors, Inc. under its current ownership.
5. If Westbrook Motors Inc. under its current ownership ceases to operate the towing business at the above-referenced location or if Westbrook Motors, Inc. transfers or sells any right title or interest in the business to any third party, its owners, successors or assigns will consent to a repeal and rescission of the Special Use Permit.
6. This covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described property and shall constitute a covenant running with the land and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its (their) heirs, successors and assigns until such time as the same is modified, amended or released and may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the property affected or to be affected by such modification, amendment, or release; provided, however, the same is also approved by the City Council and the Mayor of the City of Hialeah, or its successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in Hialeah Charter. In the event of the rescission of either (i) the business tax receipt pursuant to Paragraph 3 hereof, or (ii) the Special Use Permit pursuant to Paragraph 5 hereof, this Declaration of Restrictive Covenants shall be deemed terminated

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DECLARATION OF RESTRICTIVE COVENANTS

without the need for further action by any party. Notwithstanding the foregoing, either the owner of the subject property or the appropriate official of the City of Hialeah may at any time after such rescission record an affidavit attesting to such rescission, and such affidavit shall be presumptive evidence of the rescission and subsequent termination of this Declaration.

7. Where construction has occurred on said property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive Covenants shall not be construed as clouding title of any of said property on which such development has occurred.

IN WITNESS WHEREOF, We have hereunto set out hands and seals at
miami Dade, Florida, this 25 day of November, 2009.
(location)

Attest:

TODD RUDERMAN

Name of Corporation: Tarco Red Road, LLC /
TDM Red Road, LLC

Signed, sealed and delivered in the
presence of:

CARLOS DIAZ

Witness CARLOS DIAZ

Typed/Printed Name

Odette Soker

Witness Odette Soker

Typed/Printed Name

By:

[Signature]
Managing Member

TODD RUDERMAN
Typed/Printed Name

Corporate Seal

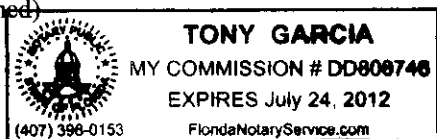
STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I HEREBY CERTIFY that on this 25 day of November, 2009, before me, an officer duly authorized in the State of Florida and in County of Miami-Dade, to take acknowledgments, personally appeared RAUL SUAREZ, and TODD RUDERMAN. To me known to be the person(s) described herein and who executed the foregoing instrument, and he/she/they acknowledged before me, under oath, that he/she/they executed same.

WITNESS my hand and official seal this 25 day of Nov, 2009

Tony Garcia
Notary Public, State of Florida

Tony Garcia FL
(Name of Notary Public: Print, Stamp, or Type
as Commissioned)



☒ Personally known to me, or
☒ Produced identification:

Drivers Lic.
Identification produced:

☐ Did take an oath
☐ Did NOT take an oath

Signed, sealed and delivered in the
presence of:

Witness (2 Witnesses
required)

Typed/Printed Name Odette Soler

Witness:

Typed/Printed Name Enmanuel Rodriguez

Owner

Typed/Printed Name Raul Suarez

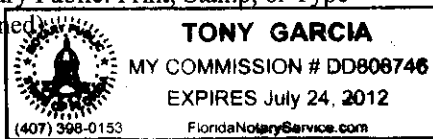
STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I HEREBY CERTIFY that on this 25 day of November, 2009, before me, an officer duly
authorized in the State of Florida and in County of Miami-Dade, to take acknowledgments, personally
appeared Raul Suarez and Todd Ruderman. To me known to be the
person(s) described herein and who executed the foregoing instrument, and he/she/they acknowledged before
me, under oath, that he/she/they executed same.

WITNESS my hand and official seal this 25 day of Nov, 2009

Notary Public, State of Florida

(Name of Notary Public: Print, Stamp, or Type
as Commissioned)



☒ Personally known to me, or
☒ Produced identification:

Drivers Lic.
Identification produced:

☐ Did take an oath
☐ Did NOT take an oath

This document was prepared by:

Javier L. Vazquez, Esq

Name

Signature of Notary Public

6500 Cow Pen Road, Suite 302

Street

Name of notary typed, printed, or stamped
Commission Number:

Miami Lakes Florida 33014
City State Zip Code